

FREDERICK COUNTY LIQUOR BOARD
Public Meeting Minutes
Monday, August 25, 2014

Those Present: Mr. Dick Zimmerman, Chairman
Mrs. Maggi Hays, Board Member
Mr. Rick Stup, Board Member
Mrs. Linda B. Thall, Sr. Assistant County Attorney
Mr. Harold C. DeLauter, Alcoholic Bev. Inspector
Mr. Bob Shrum, Alcoholic Bev. Inspector
Ms. Kathy L. Vahle, Administrator
Mrs. Sandra Rees, Administrative Specialist IV

A Public Meeting was held at 12 E. Church Street, Frederick, Maryland, and was called to order at 9 am by Chairman Zimmerman.

1. Decision Required: Violation

RE: Debra Garner
for the use of Big B's, LLC
t/a Joey's Express
430 E. Patrick St. A
Frederick, MD 21701
Class A, Beer Only
License Number 11A 3394 SU
FCLB Case Number: 7913

The Board held a violation hearing for the charge of selling an alcoholic beverage to a minor and also selling alcohol to an intoxicated person. Chairman Zimmerman asked if the licensees would like to address the No Contest Letter for a Late Pickup of the Renewal. The licensees chose to have a separate Hearing scheduled for that Violation. Mrs. Thall swore in the witnesses (See attached Sign In Sheet). The licensee pled Not Guilty and asked for a Motion to Dismiss the case for the first charge and pled Not Guilty for the second charge. Mr. Hartinger, Lawyer, stated Ms. Garner received a disposition of Probation Before Judgement unsupervised for Selling Alcohol to a Minor and based upon the disposition he requested to dismiss the case. Mrs. Thall stated that the citation to Art. 2B provided did not apply to Frederick County. The Board passed a Motion to Deny the Request to dismiss the violation for selling alcohol to a minor.

MOTION: Mr. Stup made a motion to deny the motion to

dismiss.

SECOND: Mrs. Hays seconded the motion.

FURTHER DISCUSSION

ON THE MOTION: There was no further discussion on the motion.

VOTE: Mr. Stup – Aye
Mrs. Hays – Aye
Mr. Zimmerman – Aye

The vote was unanimous. **Aye – 3 Nays – 0**
(Motion Passed)

Mr. Naugle, the clerk said the patron did not appear intoxicated when he sold him the alcohol. Ms. Vahle stated the license was issued on February 13, 2002. On June 13, 2004 was a violation for a Late Pickup of the license for 29 days and a No Contest Letter was sent for a fine of \$1,450. They have requested a Public Hearing to be scheduled, which is scheduled for October 20, 2014. Mr. Stup asked Ms. Garner if there were plans for installing computer software for reading IDs, and she stated there was a whole new system being put in.

MOTION: Mrs. Hays made a motion of Not Guilty for the charge of Selling Alcohol to an Intoxicated Person.

SECOND: Mr. Stup seconded the motion.

FURTHER DISCUSSION

ON THE MOTION: There was no further discussion on the motion.

VOTE: Mrs. Hays – Aye
Mr. Stup – Aye
Mr. Zimmerman – Aye

The vote was unanimous. **Aye – 3 Nays – 0**
(Motion Passed)

Findings of Fact: Did the licensee either directly or through an employee knowingly sold an alcoholic beverage to a minor, Amber Davis on February 10, 2014? The Board agreed with the finding.

Findings of Fact: Did the licensee either directly or through an employee permitted the possession of an alcoholic beverage by a minor, Amber Davis on February 10, 2014? The Board agreed with the finding.

Findings of Fact: Did the licensee based on the findings of fact violate Section 12-108c of Article 2B of the Maryland Annotated Code and Section 615 (a) and (g) of the Board's Regulations. The Board agreed with the finding.

MOTION: Mr. Stup made a motion to find the licensee guilty of the charge as stated.

SECOND: Mrs. Hays seconded the motion.

FURTHER DISCUSSION

ON THE MOTION: There was no further discussion on the motion.

VOTE: Mr. Stup – Aye
Mrs. Hays – Aye
Mr. Zimmerman – Aye

The vote was unanimous. **Aye – 3 Nays – 0**
(Motion Passed)

MOTION: Mr. Stup made a motion for a fine of \$250 and suspend the license for 15 days and that suspension be suspended for a 3 month probationary period.

SECOND: Mrs. Hays seconded the motion.

FURTHER DISCUSSION

ON THE MOTION: There was no further discussion on the motion.

VOTE: Mr. Stup – Aye
Mrs. Hays – Aye
Mr. Zimmerman – Aye

The vote was unanimous. **Aye – 3 Nays – 0**
(Motion Passed)

2. Decision Required: Violation

RE: RE: Michael D. Allen
for the use of Joey &
Johnny's LLC
t/a Manny Mart
119 South Market Street
Frederick, MD 21701
Class A Off Sale, Beer
License Number 11A 3104 SU
FCLB Case: 7502

The Board held a violation hearing for the charge of selling an alcoholic beverage to a minor. Mrs. Thall swore in the witnesses (See attached Sign In Sheet). The licensee pled Not Guilty. The licensee was represented by Scott Hartinger. He requested the Board to consider a Motion to Dismiss the charge.

MOTION: Mr. Stup made a motion to deny the request to dismiss the case.

SECOND: Mrs. Hays seconded the motion.

FURTHER DISCUSSION

ON THE MOTION: There was no further discussion on the motion.

VOTE: Mr. Stup – Aye
Mrs. Hays – Aye
Mr. Zimmerman – Aye

The vote was unanimous. **Aye – 3 Nays – 0**
(Motion Passed)

The clerk stated he was busy and did not check the ID. Ms. Vahle stated the license was issued July 6, 2012. On November 19, 2012 were given a warning for the license not being posted, November 18, 2013 charged with Selling Alcoholic Beverages to a Patron outside the licensed establishment and received a \$200 fine and requested a reconsideration and the Board heard the reconsideration on January 6, 2014 but did not change their decision. May 5, 2014 they were charged with Selling Alcoholic Beverages to an intoxicated person and found not guilty. On June 13, 2014 they picked the license up late and paid a \$300 fine with No Contest Letter.

MOTION: Mrs. Hays made a motion to find the licensee guilty.

SECOND: Mr. Stup seconded the motion.

FURTHER DISCUSSION

ON THE MOTION: There was no further discussion on the motion.

VOTE: Mrs. Hays – Aye
Mr. Stup – Aye
Mr. Zimmerman – Aye

The vote was unanimous. **Aye – 3 Nays – 0**
(Motion Passed)

MOTION: Mr. Stup made a motion for a \$500 fine and 30 days suspension, suspended for 6 months probation.

SECOND: Mrs. Hays seconded the motion.

FURTHER DISCUSSION

ON THE MOTION: There was no further discussion on the motion.

VOTE: Mr. Stup – Aye
Mrs. Hays – Aye
Mr. Zimmerman – Aye

The vote was unanimous. **Aye – 3 Nays – 0**
(Motion Passed)

3. Decision Required: Violation

RE: Robin Wetzel and Christopher
Wilcom for the use of ABC of
Frederick Co. Inc.
t/a Wilcoms Inn
11234 Fingerboard Rd.
Monrovia, Maryland 21770
Class B, On Sale Beer, Wine and
Liquor
License Number 11BL 1023
FCLB Case Number: 7915

The Board held a violation hearing for the charge of purchasing an alcoholic beverage from other than a duly licensed manufacturer and allowing patrons to be in the establishment after hours. Mrs. Thall swore in the witnesses (See attached Sign In Sheet). The licensees pled Not Guilty for the first charge and Guilty with explanation for the second charge. Ms. Wetzel stated she did not purchase the bottle of alcohol and the band could have brought it in and left it there. She stated for the second charge she was cleaning up and the bartender was new and she misunderstood about the closing times. Also people from the band were there waiting for their rides. Ms. Vahle stated the license was issued January 31, 2013 and on May 17, 2013 there was a late pickup of the license and a \$50 No Contest Letter was paid, July 30, 2014 change of hours without notification and written warning was given, on July 30, 2014 there was not work schedule or regulations and written warning was given, July 14, 2014 a second offense of no schedule or regulations relating to the inspection of June 21, 2014 and \$200 fine No Contest Letter and response is due by September 1, 2014 and no response has been given as yet.

Findings of Fact: Did the licensee either directly or through an employee knowingly purchase any alcoholic beverages except from a duly licensed manufacturer, wholesaler or private bulk sale permit holder? Mrs. Hays and Commissioner Zimmerman did not agree with the finding.

Findings of Fact: Did the licensee either directly or through an employee knowingly kept or permitted to be kept upon the licensed premises any alcoholic beverages except those purchased from a duly licensed manufacturer, wholesaler or private bulk sale permit holder? Mrs. Hays and Mr. Stup agreed with the finding.

Conclusion of Law: Did the licensees violate Section 12-107 (a) of Article 2B and Section 6.17 of your regulations? Mrs. Hays and Mr. Stup agreed with the finding.

MOTION: Mr. Stup made a motion for charge #1 a fine of \$200 and for charge #2 a fine of \$200 for each person for a total of \$1200, 15 days suspension, suspended with 3 months probation.

SECOND: Mrs. Hays seconded the motion.

Commissioner Zimmerman stated he was not going to vote in favor of the second charge as a number of the persons of the 6 were employees.

FURTHER DISCUSSION

ON THE MOTION: There was no further discussion on the motion.

VOTE: Mr. Stup – Aye
Mrs. Hays – Aye
Mr. Zimmerman – Nay

The vote was **Ayes – 2 Nay – 1**
(Motion Passed)

4. Decision Required: Approval of the Meeting Minutes for August 11, 2014.

Mr. Stup had a clarification on the Staff Minutes on page 2, Item 2 continued, second to the last sentence, to read, “Mr. Stup stated pertaining to his submitted list of things to discuss”.

MOTION: Mr. Stup made a motion to approve the Staff Minutes for August 11, 2014 as amended and the Public Meeting Minutes as distributed.

SECOND: Commissioner Zimmerman seconded the motion.

FURTHER DISCUSSION

ON THE MOTION: There was no further discussion on the motion.

VOTE: Mr. Stup – Aye
Mr. Zimmerman – Aye

The vote was unanimous. (Mrs. Hays was not present for this vote.)

Aye – 2 Nays – 0
(Motion Passed)

The meeting was adjourned at 10:39AM.

Respectfully submitted,

Kathy Vahle, Administrator
FREDERICK COUNTY LIQUOR BOARD

Prepared by Sandra Rees